

Remarks

Claims 1, 4 – 6 and 9 – 12 were rejected under 35 U.S.C. §103(a) as being unpatentable over Druitt (U.S. 5,638,972) in view of Dudzik (GB 2,235,186).

Without acquiescing in the propriety of this rejection as to the as-examined forms of claims 1, 4 – 6 and 9 – 12, it is respectfully submitted that claims 1, 4 – 6 and 9 – 12 define patentably under 35 U.S.C. §103(a) over any proper combination of the teachings of Druitt and Dudzik in view of the amendments to claims 1, from which claims 4 and 5 depend, and 6, from which claims 9 – 12 depend.

Claims 1 and 6 are now specifically limited to the closure assembly in which a barrier disc is “inserted in” closure, as described in the specification at page 4, lines 6 – 8. This limitation differs the closure assembly of the claims from the closure assembly taught by Dudzik whose “barrier sheet” (25) is “molded” to the “cap” (11), as described in the last full paragraph on page 4 of Dudzik. By “inserting” the barrier disc into the closure as opposed to molding the closure around the barrier disc, problems of molding compatibility are avoided, which would be particularly troublesome in attempting to mold an effective gas barrier material to a closure molded from one or another of the materials set forth in claims 4 and 9.

Claims 1, 4 – 6 and 9 – 12 further define patentability under 35 U.S.C. §103(a) over any proper combination of the teachings of Druitt and Dudzik in view

which claims 9 – 12 depend, with respect to the barrier disc being adapted to span (claim 1) or spanning (claim 6) “the entirety of a width of the rim of the container.”

This feature, which is clearly supported by Fig. 3 of the drawing of this application, clearly differentiates the invention of claims 1 and 6 and their respective dependent claims from the teachings of Dudzik, whose gas-impermeable barrier sheet (25) is clearly smaller in diameter than the inside of the rim of the container to which it is applied, as is clear from Fig. 2 of the Dudzik drawing. Thus, Dudzik’s “cover” (25) is not effective to retard gas permeation into or out of the associated container through an annulus between the outside of the cover and the inside of the container rim.

Accordingly, it is respectfully submitted that claims 1, 4 – 6 and 9 –12 define patentably under 35 U.S.C. §103(a) over any proper combination of the teachings of Druitt and Dudzik in view of the amendments to claims 1 and 6, and reconsideration and withdrawal of the rejection of each of such claims are, therefore, respectfully requested.

Claims 2, 3, 7 and 8 were rejected under 35 U.S.C. §103(a) as being unpatentable over Druitt in view of Dudzik, as applied to claims 1 and 6, and further in view of Product Data Sheet of Daraform Exp. 5162 –65EG. Without acquiescing in the propriety of this rejection as to the as-examined forms of claims 1, from which claims 2 and 3 depend, and 6 from which claims 7 and 8 depend, it is respectfully submitted that claims 2, 3, 7 and 8 define patentably under 35 U.S.C. §103(a) with

their respective parent claims, claims 1 and 6, in view of the amendments to claims 1 and 6, as set forth above.

Accordingly, reconsideration and withdrawal of the rejection of claims 2, 3, 7 and 8 under 35 U.S.C. §103(a) are respectfully requested.

Claims 2 and 7 were rejected under 35 U.S.C. §103(a) as being unpatentable over Druitt in view of Dudzik, as applied to claims 1 and 6, and further in view of Richmond (U.S. 6,095,359). Without acquiescing in the propriety of this rejection as to the as-examined form of claims 2 and 7, it is respectfully submitted that claims 2 and 7 define patentably under 35 U.S.C. §103(a) over any proper combination of the teachings of Druitt, Dudzik and Richmond in view of the amendments to claims 1, from which 2 depends, and 6, from which claim 7 depends, as set forth above.

Accordingly, reconsideration and withdrawal of the rejection of claims 2 and 7 under 35 U.S.C. §103(a) are respectfully requested.

Claims 3 and 8 were rejected under 35 U.S.C. §103(a) as being unpatentable over Druitt in view of Dudzik and Richmond, as applied to claims 2 and 7, and further in view of Yamada et al. (U.S. 5,143,763). Without acquiescing in the propriety of this rejection as to the as-examined forms of claims 3 and 8, it is respectfully submitted that claims 3 and 8 define patentably under 35 U.S.C. §103(a) over any proper combination of the teachings of Druitt, Dudzik, Richmond and Yamada et al. in view of the amendments to claims 1, from which claim 3 depends,

respectfully submitted that claims 3 and 8 define patentably under 35 U.S.C. §103(a) over any proper combination of the teachings of Druitt, Dudzik, Richmond and Yamada et al. in view of the amendments to claims 1, from which claim 3 depends, and 6, from which claim 8 depends, as set forth above.

It is also respectfully submitted that the tortured reconstruction of the prior art needed to support the rejection of claims 3 and 8, requiring, as it does, no less than 4 prior art references in support thereof, is nothing more than a "hindsight" reconstruction of the prior art that is impermissible under *In re Fritch*, 972 F2d. 126, 23 USPQ2d 1780, 1784 (Fed.Cir. 1992).

Accordingly, for any or all of the above reasons, it is respectfully submitted that claims 3 and 8 define patentably under 35 U.S.C. §103(a) over any proper combination of the teachings of Druitt, Dudzik, Richmond and Yamada et al., and reconsideration and allowance of each of such claims are, therefore, respectfully requested.

It is respectfully submitted that Applicants have responded in a fully satisfactory manner to all matters at issue in this application and that this

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application is in condition for allowance. Reconsideration and allowance of this application at an early date are, therefore, respectfully requested.

Respectfully submitted,

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